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## 8 IN THE UNITED STATES DISTRICT COURT

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## FOR THE NORTHERN DISTRICT OF CALIFORNIA

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KARMAL DEXTER HOWARD,  
Petitioner,  
v.  
R. GROUNDS, Warden,  
Respondent.

No. C 12-1164 JSW (PR)

**ORDER OF DISMISSAL**

(Docket No. 3)

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Petitioner, a state prisoner currently, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging a conviction and sentence obtained in 2002 in Alameda County Superior Court. His prior petition to this Court challenging the same conviction and sentence was dismissed as untimely. *Howard v. Runnels*, No. 05-0500 MMC (PR) (N.D. Cal., March 17, 2006). This Court subsequently denied his requests for a certificate of appealability, and it appears that Petitioner did not seek such a certificate from the Ninth Circuit or otherwise appeal the dismissal of his petition.

A second or successive petition may not be filed in this court unless petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this Court to consider the petition. *See* 28 U.S.C. § 2244(b)(3)(A). Petitioner has not sought or obtained such an order from the Ninth Circuit. The petition is accordingly DISMISSED without prejudice to refiling if Petitioner obtains the

**United States District Court**

For the Northern District of California

1 necessary order.

2 Rule 11(a) of the Rules Governing Section 2254 Cases now requires a district  
3 court to rule on whether a Petitioner is entitled to a certificate of appealability in the  
4 same order in which the petition is decided. Petitioner has failed to make a substantial  
5 showing that a reasonable jurist would find this Court's denial of his claim on procedural  
6 grounds debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).  
7 Consequently, no certificate of appealability is warranted in this case.

8 Petitioner's application for leave to proceed in forma pauperis (docket number 3)  
9 is DENIED in light of his payment of the filing fee.

10 The Clerk shall enter judgment and close the file.

11 IT IS SO ORDERED.

12 DATED: April 24, 2012

  
13 JEFFREY S. WHITE  
14 United States District Judge

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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

KARMAL DEXTER HOWARD,

Case Number: CV12-01164 JSW

Plaintiff,

## **CERTIFICATE OF SERVICE**

V.

GARY SWARTHOUT et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on April 24, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Karmal Dexter Howard T-55453  
California State Prison Solano  
16-166L  
P.O. Box 4000  
Vacaville, CA 95696-4000

Dated: April 24, 2012

Jennifer Ottolini  
Richard W. Wickings, C.

Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk